

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THE SCOTTS COMPANY LLC, and OMS INVESTMENTS, INC., Plaintiffs, v. SBM LIFE SCIENCE CORP., Defendant.	Case No. 2:23-cv-01541-EAS-EPD JURY TRIAL DEMANDED
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PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

Plaintiffs, The Scotts Company LLC and OMS Investments, Inc. (collectively, "Plaintiffs") hereby submit this Opposition to Defendant SBM Life Science Corp.'s ("Defendant") Partial Motion to Dismiss ("Defendant's Motion") (Dkt. 5). Plaintiffs respectfully request that the Court dismiss Defendant's Motion as moot.

On October 16, 2023, Plaintiffs filed their First Amended Complaint (Dkt. No. 11), which adds three claims against Defendant and also adds clarifying factual allegations supporting Plaintiffs existing claims (*See* Dkt. No. 1). Although Plaintiffs maintain their Complaint (Dkt. 1) as initially filed sufficiently and properly pleaded Plaintiffs' claims against Defendant and that Defendant's Motion is without merit under relevant case law in this Circuit, Plaintiff's First Amended Complaint renders Defendant's Motion as moot.

For the reasons set forth above, Defendant's Motion should be dismissed as moot, with leave to refile a renewed motion.

Respectfully submitted,

**THE SCOTTS COMPANY LLC AND OMS
INVESTMENTS, INC.**

Date: October 16, 2023

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all parties of record on October 16, 2023, via the Court's CM/ECF system.

/s/ David DeVillers

David DeVillers